

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MARK NOENNIG**, on February 13, 2003 at 3:15 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Mark Noennig, Chairman (R)
Rep. Eileen J. Carney, Vice Chairman (D)
Rep. Scott Mendenhall, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Rod Bitney (R)
Rep. Larry Cyr (D)
Rep. Ronald Devlin (R)
Rep. Gary Forrester (D)
Rep. Ray Hawk (R)
Rep. Hal Jacobson (D)
Rep. Jesse Laslovich (D)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Penny Morgan (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Linda Keim, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

The time stamp for these minutes appears at the beginning of the content it refers to.

Committee Business Summary:

Hearing & Date Posted: HB 511, HB 442, 2/6/2003
Executive Action: HB 335, HB 383, HB 395, HB 408,
HB 511

HEARING ON HB 511

{Tape: 1; Side: A; Approx. Time Counter: 0 - 18}

Sponsor: REP. GEORGE EVERETT, HD 84, KALISPELL

Opening Statement by Sponsor:

REP. EVERETT said that HB 511 extends a governing body's authority for revisions to their master plans until October 1, 2005, at which time the growth policy would take effect. This bill is needed by counties and cities who are still revising their master plans because of unforeseen population growth, the opportunity for increased economic activity, the need for services expansion, and the creation of jobs.

Proponents' Testimony:

Peggy Trenk, Montana Association of Realtors, expressed support for HB 511 and stated a need for encouraging growth policies and growth planning. She said that it is important to allow counties and cities enough time to make the necessary revisions.

Ann Hedges, Montana Environmental Information Center (MEIC), said that MEIC supports the growth policy law and helped develop the law. This bill gives a little extra time to phase in growth policies and meet the requirements.

Gary Hall, Flathead County Commissioner, said that some cities have been rushed, and as a result not everything gets addressed or done properly. Mr. Hall read a letter of support from Susan Nicosia, Mayor of Columbia Falls.

EXHIBIT (loh32a01)

Harold Blattie, Montana Association of Counties (MACo), said that MACo supports HB 511. He stated that many counties are trying to do growth planning and make growth policies with their current internal resources, because additional funding is not available. He commented there has also been some reluctance to go too far in the planning, since the current Legislature is dealing with some growth policy bills and may change the way things are done.

Byron Roberts, Montana Building Industry Association, said that planning is a continuing process, and old plans are not necessarily bad plans. He said that extending this process is reasonable and asked for a DO PASS.

Elaine Sliter, representing Anderson and Baker, Evergreen Property Owners Association and North Valley Hospital, voiced

support for HB 511. She said that there are several builders who have projects that are at a standstill that support HB 511. She noted that Smart Growth Coalition is at another committee meeting and also supports the bill.

Opponents' Testimony: None

Informational Testimony:

Mike Barrett, former councilman, letter-writer and poet spoke about the importance of long-range intervention.

EXHIBIT (loh32a02)

Questions from Committee Members and Responses:

REP. MAEDJE asked for information about the Attorney General's Opinion mentioned in Peggy Trenk's testimony. **Ms. Trenk** said that there was an Attorney General's Opinion issued that clarified that master plans could not be used. The Opinion said that if there was no compliant growth policy, there wasn't anything to work with. Also discussed was zoning; what was substantive and what was not.

Closing by Sponsor:

REP. EVERETT read from a set of 1999 minutes when growth policy was first brought up. "SEN. STANG, the sponsor of the bill, said that the effective date would be after the next legislature meets. If cities find that this is a problem, they will be able to come back to the next legislature to ask for an extension of time. This only applies to cities that already have the plan, it is optional to those who have no plan." Because of the Attorney General's ruling on SB 97, counties who do not have growth policies in place have their hands tied. To do any substantial zoning changes requires that a growth policy is already in place.

Flathead County has about \$200 million in delayed developments because the growth policy is not in place. Other counties are either revising their policies, or putting their policies on hold. At a time when growth is being encouraged, many projects have been stalled. He concluded by saying that it is better to give the extension at this time and have the policies done right, than to have them just thrown together.

HEARING ON HB 442

{Tape: 1; Side: A; Approx. Time Counter: 18 - 30}

Sponsor: REP. HOLLY RASER, HD 70, MISSOULA

Opening Statement by Sponsor:

REP. RASER said that HB 442 removes the exemption on voter approval for annexation of less than 300 parcels of land. She said that HB 442 "shifts the burden from the city, who has to then show the residents why they should choose to belong to the city, to the residents themselves, who would then have to protest in writing saying why they do not wish to be annexed." **REP. RASER** said that this is a statewide problem. She submitted a letter of support from Vicky Bostick, a Missoula Citizen.

EXHIBIT (loh32a03)

Proponents' Testimony:

Gerard Berens, Target Range Home Owners Association, said that he represents the 900 home owners in the Target Range School District. **Mr. Berens** said that HB 442 removes a roadblock and gives the citizens the right to vote. He said that all citizens deserve democracy, no matter how small their number. This bill will correct a major flaw in current law, and will provide voting rights anywhere in the state there are 300 or less parcels near a municipality. **Mr. Berens** read a letter of support from Michael Flynn. It is quoted below:

I have read your bill and strongly support it. I am a fourth generation Montanan, raising a family on my family's rance outside of Missoula. I am also President of the Mullan Road Coalition, not by choice but rather by necessity. My assessment for the RSID 7484 Mullan Road Sewer is about \$650,000, on agriculture ground. I am told by local government that I had a vote in this. Let me get to the point. As a Montana family who has paid and paid and paid taxes in Missoula County and the State of Montana (135 years), I believe it's time I have some say in controlling my financial destiny. I don't know how many of these hits I can absorb.

Mr. Berens said that Mr. Flynn was told by an ex-county commissioner that "if he wanted a farm, he should sell and move someplace else." **Mr. Berens** said, "This is not the way to treat long-standing residents."

{Tape: 1; Side: A; Approx. Time Counter: 20.1 - 24.6}

EXHIBIT (loh32a04)

Mr. Berens read a letter of support from Lewis De Marois, Missoula Citizen.

EXHIBIT (loh32a05)

Mr. Berens read a portion of a letter from Jim Mocabee, a Missoula Citizen.

EXHIBIT (loh32a06)

Opponents' Testimony:

Alec Hansen, Montana League of Cities and Towns (MLCT), said that MLCT represents 129 cities and towns, including Missoula and is opposed to HB 442. Mr. Hansen said that current law allows the right to vote and express an opinion. In the portion of the bill that would be stricken, 50% of the owners of less than 300 parcels may communicate their objection to the City Council. This law has been on the books for many years, and has worked well in most places.

Alec Hansen said that the protest provision allows people to express their opinion, and allow for the full exercise of their democratic rights. When a person agrees to waive their right to annexation in return for municipal services, they should not be allowed to vote "no" on the same question.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 13.5}

Mike Kadas, Mayor of the City of Missoula, explained how annexation works in Missoula and said that it usually revolves around sewer because of environmental issues or growth. Developers want sewer services so that they can develop at four dwelling-units per acre, instead of one dwelling-unit. He said that if the property is contiguous to the City, they usually annex immediately. If it is not contiguous, they will not annex immediately, but will require a waiver of the right to protest. When a reasonable service-area is available, the City will exercise the right to annex and make sewer access available at that time.

Mr. Kadas said that if this bill passes, the City will have to make a choice of extending sewer and annexing immediately, or not extending sewer services. Both choices are bad and don't make for good common sense growth or development of municipal services. He stated that the area will end up being a large poorly planned development that uses a lot of City services, and is being subsidized by the taxpayers.

Dave Nielsen, City Attorney for Helena, said that Helena shares Missoula's concerns about putting the decision in the hands of the voters. He stated that with residential property, sometimes tenants are involved. In that case, the property right could be put in the hands of a tenant or subsequent purchaser who is not necessarily the same person. Voting has the effect of destroying

the contracts or development agreements that the City has. Annexing contiguous commercial property would be impossible because there are no electors living on the property to conduct an election.

Mr. Nielsen said that the City provides many valuable services to railroad property, but that wholly surrounded railroad property cannot be annexed with HB 442.

This bill puts control in the hands of electors who may be living on the property. If rental property was outside of the city, instead of a 51% protest, the right would be given to the tenants who could vote to annex against the will of the property owner.

Jani McCall, City of Billings, said that this bill would frustrate orderly development and the provision of municipal services. She spoke in opposition of HB 442.

Gary Hall, Flathead County Commissioner, said that the Commissioners oppose HB 442.

Informational Testimony: None

Questions from Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Counter: 15.4 - 30}

REP. FORRESTER asked for a further explanation of how a protest is conducted. **Alec Hansen** said that he did not have the requested information.

REP. MAEDJE asked if a city is mandated by any law to provide sewer services or police protection outside of the city limits. **Mike Kadas** said, "No, but that with police protection the City feels an obligation." He clarified that the point he made earlier was that of providing police protection to county residents while they are inside the city limits.

REP. MAEDJE asked if any annexations of 300 or more parcels have gone forward. **Mike Kadas** said that the City did a larger one using a different method, and it went smoothly.

REP. MAEDJE asked whether the present method of 300 or more parcels has ever been approved by the voters. **Mike Kadas** said that he was not aware of any jurisdiction that has tried to use that part of the law since the law was changed to add the 300-parcel limit. He stated that the consequences of failure are that you can't go back for five years.

REP. MAEDJE said that being annexed by the City does not just include access to services. **REP. MAEDJE** asked, "Should the people outside the City limits have the right to vote whether or not they want to be governed by City law?" **Mike Kadas** said that annexation also allows a vote on city council members and mayors. He said that county residents get the right to vote through the protest mechanism. If 50% protest a contiguous annexation, there is no annexation.

REP. MAEDJE asked if citizens living outside of the city limits shouldn't have the right to vote, outside of the protest mechanism. **Mike Kadas** said that because citizens have the right to protest, that is essentially the right to vote.

REP. MENDENHALL asked for further information about county residents getting services and the need to pay their fair share. He referred to previous testimony about a rancher who was assessed \$650,000 and asked whether that constituted his fair share. (Exhibit 4) **Mike Kadas** said that the \$650,000 will be assessed in a Rural Self-Improvement District (RSID) established by the County for sewer service to his property. The county felt that they had to extend sewer service because the rancher was part of a larger area that controls one major sewer system that is in bad shape. The City was asked to extend the sewer and agreed to comply. One of the conditions was that as people hook to the sewer, they will have to sign a waiver against the right to protest annexation. This service will increase the value of his property, and he may have to sell some of the property in order to finance this.

REP. MENDENHALL asked if that constitutes his fair share. **Mike Kadas** said that the assessment methodology used by the Commissioners was within the law.

REP. MENDENHALL referred to previous testimony about railroad property and the number of services provided. **David Nielsen** said that the City provides ambulance service for transients that get hurt, fire services are provided, and City police respond to crime situations. He said that it is not always practical for the Sheriff to respond because of the location.

REP. MENDENHALL asked if the services provided to railroad property are a significant issue. **Mr. Nielsen** said that he could not say what percent that would be.

REP. DEVLIN asked if the 300 parcels might be of different sizes. **Mayor Kadas** answered, "Yes." **REP. DEVLIN** asked if the voting is per person, based on acreage, or if it is a weighted vote. **Mr.**

Nielsen said that it is by property owner, and if there are numerous owners for one parcel, each one gets a vote.

REP. DEVLIN asked whether state law or city ordinance applies to the septic system and density. **Mr. Nielsen** said that it would be state law and that the amount of density allowed depends upon the soil profile. In Missoula, a septic system cannot be put in unless there is at least an acre of land.

REP. DEVLIN said that he served on the board at a country club, and there was a city ordinance that stated if there were problems with the septic system, the country club was required to hook up to the sewer. He asked if a waiver was required when the hook up was made. **Mr. Nielsen** said that in Missoula, if there is a sewer line within 200 feet of a failed septic system, it is a requirement to hook onto the sewer line rather than repair the septic system. In that case, a waiver is required.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 10}

CHAIRMAN NOENNIG asked if he had a clear understanding that the three ways to annex are wholly surround, contiguous, and miscellaneous. He said that no petition is required for contiguous, but that the majority have to protest. If there are over 300 parcels, a vote is required. **Alec Hansen** said that there are two sub-methods under the contiguous method (under 300 parcels and over 300 parcels). He stated that the others are the petition method and a method for the provision of services. Each one is different, and they are considered separately.

CHAIRMAN NOENNIG said that many of the waivers of protest were entered years ago. **CHAIRMAN NOENNIG** asked, "Could that protest have had the effect of denying the annexation or was it just a voice? Now, under the 300-parcel limit, the majority can protest and prevent the annexation. Was that true before this law?"

Mayor Kadas said that there was no limit, and a 51% protest would stop the annexation in all cases. **CHAIRMAN NOENNIG** said that it was an unlimited size that could be prevented by a majority before. **Mr. Kadas** agreed and said that it was a huge compromise to come from unlimited down to 300 parcels.

Closing by Sponsor:

REP. RASER commented that the rancher mentioned in testimony is being assessed \$650,000 for sewer that he does not want or need. He is not developing his property, has no intention of doing so, and is being assessed this amount under protest. She addressed city police going out to serve in the county, and said that rural

fire departments often assist in the city. Every time county land is annexed, the county is losing funding.

REP. RASER said that the waiver issue is different in Helena. She said that she does not have as much of a problem with a city that would provide the sewer and water services, and then say that when the area grows, the right to protest will be waived in exchange for provision of services. In Missoula, services are not being provided, but a waiver must be signed in order to complete the building process, even for people with legal septic systems. If a developer wants a sewer system, a developer can petition to be annexed into the city and pay the associated costs.

EXECUTIVE ACTION ON HB 298

{Tape: 2; Side: A; Approx. Time Counter: 11 - 15}

Motion: **REP. BITNEY** moved that **HB 298 DO PASS.**

Motion: **REP. NOENNIG** moved that **HB 142 BE AMENDED.**

Legislative Staffer Connie Erickson explained that the amendment (Exhibit 7) puts a cap of \$50 on the fee that can be assessed.

EXHIBIT(loh32a07)

Vote: Motion carried 14-2 by voice vote, with **REPS. LAWSON and BECKER** voting no.

Motion: **REP. BITNEY** moved that **HB 298 BE FURTHER AMENDED.**

Connie Erickson explained that the amendment (Exhibit 8) allows a fee to be charged for review of any division of land in that section.

EXHIBIT(loh32a08)

CHAIRMAN NOENNIG said that this sounded like a substantive amendment and stated that, barring any objection, action would be suspended until **REP. JACOBSON** returned.

REP. BITNEY stated that he would withdraw his motion.

EXECUTIVE ACTION ON HB 335

{Tape: 2; Side: A; Approx. Time Counter: 16.3 - 30}

Motion: **REP. RASER** moved that **HB 335 DO PASS.**

Motion: **REP. RASER** moved that **HB 335 BE AMENDED.**

Connie Erickson said that the amendment (Exhibit 9) inserts a provision stating that violation of the standards required does not by itself constitute negligence.

EXHIBIT (loh32a09)

REP. RASER stated that the intention of the bill is that new playgrounds purchased with public funds should follow certain standards, but not allow potential liability.

CHAIRMAN NOENNIG explained that everyone is liable for breaching a duty that causes damages. He defined "standard of care" and "reasonable expectations." He said that the jury decides what is reasonable. There is also a doctrine called negligence per se, which provides that if someone violates a statutory provision which was intended to prevent the consequence that actually occurred, the person is liable for the damages. **CHAIRMAN NOENNIG** said that the meaning of the language "not by itself" in the Amendment is not clear and may not be a good idea.

REP. BITNEY asked **REP. RASER** to address concerns that there is already product liability to the manufacturer and product liability extending to the contractor who might be a school employee, and potential cost increase to taxpayers. **REP. RASER** said that she could not address the issue of product liability. Increased costs to the taxpayer is not an issue because the expectation is there that anything purchased with public funds would be to protect the safety of the children playing on the equipment. She stated that if the equipment was installed improperly, that there would be some legal ramifications.

REP. MENDENHALL asked **CHAIRMAN NOENNIG** if this amendment increased the potential liability. **CHAIRMAN NOENNIG** said that the purpose of the amendment is to limit the liability of the person expending the public funds to purchase the equipment. "The amendment takes away the argument that doing the act itself was negligent and protects the liability of the public entity, but it may go too far," stated **CHAIRMAN NOENNIG**.

REP. RASER asked if this amendment was a good idea, or whether it is too protective. She asked if the school can be sued if the equipment was installed in good faith and the equipment complied with the guidelines. **CHAIRMAN NOENNIG** said that, "Violation of the standard required by this section probably means that someone purchased playground equipment that did not comply with the Consumer Product Safety Commission." He said that it is not clear whether it is the purchasing, or the supplying, but that it is hard to be negligent in good faith. With the amendment, there is a good argument that no one is liable.

REP. MORGAN said that if a child gets hurt on the playground, and the parent wants to sue, there is the argument that the parent did not know this was in effect. She asked, "Even with this amendment, couldn't someone still sue?"

{Tape: 2; Side: B; Approx. Time Counter: 0 - 30}

CHAIRMAN NOENNIG said that with this amendment it could not be said that this statute was violated, and that proves negligence.

CHAIRMAN NOENNIG stated, "There would still be a claim, but not a very strong one. With negligence per se, there would be a jury instruction that if there was a violation of this statute and it caused the injury, they are liable. With this amendment, a jury would not get that instruction."

REP. BITNEY asked about inserting an example of negligence.

CHAIRMAN NOENNIG said that even if something is wrong with the equipment, it does not mean negligence. It means that someone in a reasonable situation should have been inspecting and should have done something about it. The jury will find no fault if the school says they did everything they could, even if a person got hurt because there was a bolt loose, etc. This bill only goes to whether someone breached a duty. The way the bill was drafted did apply to previously existing, as well as currently installed equipment. He said that he was not sure whether the amendment does that, but "it arguably does."

REP. RASER said that her intention would be to provide language that applied the standards only to equipment installed after the effective date. **CHAIRMAN NOENNIG** said that the problem is that the amendment does not say "violation of this section," which would be purchasing equipment that is not in compliance. The amendment reads, "violation of the standard required by this section." That would cover previously existing, as well as current.

REP. RASER asked if the amendment could be conceptually changed to say, "violation of this section," and take out "the standard required?" **CHAIRMAN NOENNIG** said that could be done but the concept is different from what Mr. Melton wanted to do.

REP. MAEDJE asked how it would be determined which booklet was being used if the booklet with the standards changed from time to time. **REP. MORGAN** said that the Consumer Product Safety Commission Standards (CPSC) change frequently.

REP. RASER said that compliance would be proven by using the standards that were in effect the year of purchase.

REP. MORGAN commented that if something is on recall, the purchaser is notified and it is the purchaser's duty to repair, replace, or remove, whatever it cost.

REP. MENDENHALL said that Mr. Melton's language would be broad enough to cover old equipment, and asked if the language was changed, could a school with old equipment be sued? **CHAIRMAN NOENNIG** verified that was possible, but stated that the insurance people said, "Once CPSC language is added to a code that has to do with a playground, someone will say that is the standard of care for all playgrounds, old and new, and if the equipment does not meet that standard now, it should be replaced."

REP. MENDENHALL commented that there are schools just struggling to get by, and this is not a top priority item, compared to laying off teachers, class size, and diminishing school populations. He said that he was uncomfortable with having something in law that will cause problems.

REP. DEVLIN said that this issue exposes the school to excessive liability. The amendment attempts to address that. He suggested voting on the amendment.

Substitute Motion/Vote: **REP. RASER** made a substitute motion that **HB 335 BE TABLED. Substitute motion carried unanimously.**

EXECUTIVE ACTION ON HB 383

{Tape: 2; Side: B; Approx. Time Counter: 12.4 - 30}

Motion: **REP. RASER** moved that **HB 383 DO PASS.**

Motion: **REP. RASER** moved that **HB 383 BE AMENDED.**

Discussion:

Connie Erickson explained that the amendment (Exhibit 10) requires fleet vehicles to be registered in the county in which the person maintains a business that regularly rents vehicles.

EXHIBIT (loh32a10)

REP. BITNEY said that the amendment does not substantially change the intent of the bill. He said that he will not support it.

REP. BECKER asked, "Is it correct to say that a vehicle cannot be licensed in a county where a place of business is not maintained? Does it say anything about a percentage of business?" **Connie**

Erickson said that REP. FACEY added the language, "on a regular basis" to address that concern.

REP. FORRESTER asked about Fleet Registration laws. **Connie Erickson** explained that there are three Fleet Registration laws in Montana. Large rental-car agencies register through an interstate agreement, and taxes are apportioned out to the various agencies. HB 383 deals only with smaller agencies.

CHAIRMAN NOENNIG asked what the current requirement is for registration of small fleet vehicles. **Connie Erickson** said registration must be made in the county of the owner's permanent residence. She said that she spoke with the head of the Motor Vehicle Division at the Department of Justice and that rental cars are legally required to be registered in the county where the owner permanently resides. Some counties will allow registration of boats or motor vehicles in their county if the owner has a cabin or a part-time residence in that county. The Department can investigate if there is an objection.

CHAIRMAN NOENNIG commented that the bill language is not workable, a car does not have a domicile, and it cannot be determined where, "frequently used, dispatched, or controlled" is. The amendment is easier to understand.

Vote: Motion passed 9-7 on a roll call vote, with **REPS. BITNEY, FORRESTER, HAWK, LAWSON, MAEDJE, OLSON, and MENDENHALL** voting no.

Motion: REP. RASER moved that HB 383 DO PASS AS AMENDED.

Discussion:

REP. DEVLIN said that he voted for the amendment because the bill was not workable without it. He said that he would oppose the bill because the nature of the auto-rental business is that cars move around.

REP. BITNEY opposed HB 383 also. He said that there are many ways to circumvent this law and that this is a local bill.

REP. RASER agreed with REP. BITNEY and commented that the intention of the bill is good because many counties are looking at shrinking funds. **REP. RASER** asked, "What will stop other counties from having sales on vehicle licensing, and agencies shopping around for the cheapest county to license their vehicles in?" **REP. RASER** said that she would encourage REP. FACEY to pursue this matter or find other ways to stop it.

Vote: Motion failed 5-11 with REPS. BECKER, CARNEY, JACOBSON, RASER and LASLOVICH voting aye.

Motion/Vote: REP. LAWSON moved that HB 383 BE TABLED. Motion carried 11-5 with BECKER, CARNEY, JACOBSON, RASER and LASLOVICH voting no.

EXECUTIVE ACTION ON HB 395

{Tape: 3; Side: A; Approx. Time Counter: 0 - 8}

CHAIRMAN NOENNIG handed the gavel to **REP. MENDENHALL** for Executive Action on HB 395.

Motion: REP. BECKER moved that HB 395 DO PASS.

Discussion:

REP. DEVLIN said that the purpose of HB 395 is to replace the \$96,000 that is owed by Yellowstone County to the state by transferring the \$96,000 to the HUB, a Billings mental health drop-in health center. He commented that the Billings newspaper recently reported that a substantial grant was just made available to the HUB from the federal government. He said that he opposed the bill because it is narrow in scope and affects only one community. He said that once the debt is forgotten, HB 395 will still be on the books forever.

REP. FORRESTER said that he disagreed with REP. DEVLIN. He said that a bill two years ago forgave the debt, and that there was no opposition during the hearing. The Department of Health was here to testify on HB 395 on an informational basis only. He said that there were 14 other counties involved that did not pay when the rate went from 9% to 14% and that HB 395 is a method of writing the debt off on the Fiscal Note.

REP. MAEDJE said that the bill could be objected to because it is so specific. He stated that the Constitution requires that a bill not be specific when it can be general.

REP. DEVLIN verified that other counties also owed money, and the other counties have either paid the debt or are in the process. He said that the money is in dispute in Yellowstone County, and they have refused to pay it.

REP. NOENNIG quoted the provision REP. MAEDJE referred to: "The Legislature shall not pass a special or local act when a general act is or can be applicable." **REP. NOENNIG** stated that he was not sure whether that rule applied or not because he did not know

whether the general act is or can be applicable. He said that he was sensitive to the matter.

CHAIRMAN MENDENHALL voiced concern that this looks like a way to circumvent the appropriations allocation process by saying the debt will be repaid if payment goes to something the county believes in. He said that doing this circumvents the process, and that other counties have done this differently.

Vote: Motion that HB 395 DO PASS carried 9-7 with REPS. BITNEY, DEVLIN, HAWK, LAWSON, MAEDJE, MENDENHALL, and OLSON voting no, on a roll call vote.

EXECUTIVE ACTION ON HB 408

{Tape: 3; Side: A; Approx. Time Counter: 9.3 - 12}

CHAIRMAN NOENNIG said that HB 408 would eliminate legal double-dipping that occurs in some smaller counties.

Motion/Vote: REP. MENDENHALL moved that HB 408 DO PASS. Motion carried unanimously on a voice vote.

The Committee voted unanimously to recommend placing HB 408 on the Consent Calendar.

EXECUTIVE ACTION ON HB 511

{Tape: 3; Side: A; Approx. Time Counter: 13.1 - 15.3}

Motion: REP. LAWSON moved that HB 511 DO PASS.

Motion: REP. LAWSON moved that HB 511 BE AMENDED.

REP. LAWSON offered a Conceptual Amendment that wherever HB 511 indicates an effective date of "2005" to change that effective date to "2006" to allow more time to get the job done.

Vote: Motion carried unanimously.

Motion/Vote: REP. LAWSON moved that HB 511 DO PASS AS AMENDED. Motion carried unanimously.

The Committee voted unanimously to recommend placing HB 511 on the Consent Calendar.

ADJOURNMENT

Adjournment: 5:30 P.M.

REP. MARK NOENNIG, Chairman

LINDA KEIM, Secretary

MN/LK

EXHIBIT (loh32aad)